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April 8, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

RECOMMENDED POSITION ON STATE LEGISLATION (3 VOTES)

This letter contains recommended positions on State legislation affecting the County.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the recommended positions contained in this letter on the following:

AB 340 (Frommer) which would require the training and arming of Deputy Probation Officers that are required to participate in a duty related hazardous activity – **OPPOSE**

AB 348 (Chu) which would authorize a psychologist to release a patient from an involuntary commitment -- **SUPPORT AND AMEND**

2. Instruct the County's legislative advocates in Sacramento, working with affected departments, and other interested individuals and organizations to advocate these positions on behalf of Los Angeles County.

Departmental representatives will be present at the Board meeting to address any technical issues related to these bills.

AB 340 (Frommer)

As introduced on February 11, 2003, AB 340 applies only to Los Angeles County and would prohibit any probation officer from being required to participate in any duty related hazardous activity unless the employer provides adequate safety training and equipment. AB 340 defines "duty related hazardous activity" as any job related activity where there is a foreseeable risk of violence or significant physical harm that may cause or result in a life threatening situation or substantial endangerment of the officer. AB 340 would require the employer to provide 1) training and education about street gangs and related behavior, mental illness and domestic violence, 2) training in self defense techniques, 3) training and issuance of tasers and other non-lethal self-defense weapons, 4) training and issuance of firearms for self defense, and 5) training and issuance of protective vests.

According to the Probation Department, AB 340 raises the question of whether Deputy Probation Officers (DPOs) should be armed, creates an unfunded State mandate to train and equip DPOs, adversely affects the collective bargaining process, and potentially reduces managerial control. Additionally, AB 340 could increase the County's general liability costs, and potentially increase retirement costs.

Arming DPOs. At your Board's request, the Probation Department issued two reports dated March 11, 1999, and April 19, 1999, that addressed arming DPOs. These reports indicate that the decision to arm DPOs should be a local decision made by the Chief Probation Officer and the Board of Supervisors. In 1999, your Board and the Chief Probation Officer determined that it was appropriate to arm only a limited number of DPOs for the performance of specific duties. AB 340 would expand this policy by requiring all DPOs involved in "hazardous activities" to be armed.

The American Federation of State, County and Municipal Employees (AFSCME) Local 685 (Los Angeles Probation Officer's Union) contends that arming DPOs would be beneficial in part because it will save time and money by allowing the DPOs to perform searches when police are unable to assist. The Probation Department indicates that arming DPOs to perform dangerous searches will not result in a time or cost savings because it is County policy to have police support when conducting such searches.

Unfunded State Mandate. The training and equipment requirements of AB 340 would place new unfunded mandates on the County. The Probation Department has 3,574 peace officers including DPOs, Detention Services Officers, Group Supervisors, and others. Only 18 DPOs are authorized to carry a firearm on duty. Another six have completed firearms training but they have not been assigned to duties requiring a firearm. Under the requirements proposed by AB 340, the Probation Department has estimated that at least 1,000 DPOs would have to be trained and armed, at an initial cost of \$2.84 million. The initial estimated cost to train and arm all DPOs is \$10 million.

Given the State's fiscal condition and its recent practice of deferring SB 90 claims, the County would need to provide significant up-front funding to comply with AB 340 without any certainty that these costs would be reimbursed in the near future.

Collective Bargaining. The Probation Department has expressed concern over the adverse effect of AB 340 on labor negotiations. Currently, your Board and the Chief Probation Officer determine which DPOs will be authorized to carry a firearm. AB 340 could shift the issue of determining what constitutes a hazardous duty to labor negotiations, thereby taking the exclusive control of arming DPOs away from your Board and the Chief Probation Officer.

Management of Department. The Probation Department notes that AB 340 limits its managerial flexibility in determining the level of service by creating a hazardous duty standard that would likely require changes in staffing levels without new resources. By potentially placing the definition of hazardous duty outside of the County's control, the Department's ability to make staffing decisions, determine the level of service to the community, and control costs, will be reduced.

General Liability. AB 340 would also increase the County's general liability costs. Based on Probation's estimate that at least 1,000 DPOs would be affected, we estimate that the general liability cost of arming 1,000 DPOs is \$4.86 million. This equals six per cent of the salaries and employee benefits for 1,000 DPOs which is the same standard that is used to determine general liability costs for the Sheriff when providing services to contract cities.

Under AB 340, the total costs of arming, training and covering general liability for 1,000 DPOs is estimated to be \$7.7 million.

Finally, another issue related to arming DPOs is whether they should be eligible for safety retirement. Your Board has consistently opposed legislation that mandates eligibility of additional employees for safety retirement benefits. While AB 340 is not a mandate to include DPOs in a safety retirement program, the Probation Department indicates that it represents a significant step toward that end. **The Probation Department recommends that the County oppose AB 340, and we concur.**

AB 340 is sponsored by the American Federation of State, County and Municipal Employees (AFSCME) Local 685 (Los Angeles Probation Officer's Union). It has been referred to the Assembly Public Safety Committee and is scheduled to be heard on April 1, 2003. According to the author's office, the hearing date will be changed to April 8, 2003. There is no recorded support or opposition.

AB 348 (Chu)

As introduced on February 11, 2003, AB 348 would allow a psychologist to release a patient from an involuntary commitment when the psychologist is responsible for the continued treatment of the patient, and when the decision to release is based on their personal observation.

The Lanterman-Petris-Short Act currently provides for the involuntary detention and treatment for specified periods of time of any person who, as a result of a mental disorder, is a danger to themselves or others, or is gravely disabled. If a patient improves during that time and no longer meets the criteria for involuntary commitment, a patient can be released from detention, but only if a psychiatrist directly responsible for the treatment believes, based on their personal observation, that the person no longer requires evaluation and treatment. While psychiatrists have the authority to release patients prior to the end of the time period, psychologists currently do not have this authority.

The Department of Mental Health (DMH) indicates that AB 348 would improve quality of care by eliminating unnecessary time in commitment for patients whose condition has improved to the point where continued commitment is unwarranted. It would increase the ability of hospitals to deploy staff in the most efficient manner by eliminating the need for the psychiatrist on duty to conduct personal examinations. Patients would benefit from the continuity of care provided by the psychologist who has coordinated the care and services which have alleviated their symptoms. The same clinician who assessed and treated the person, whether a psychiatrist or a psychologist, would be able to release that person.

Because allowing a psychologist the authority to release their patient from an involuntary commitment would improve patient quality of care and improve the efficient use of hospital staff, the Department of Mental Health (DMH) recommends that the County support AB 348, and seek an amendment to require a physical check-up to determine that the patient does not have a medical condition in addition to a mental disorder, and we concur. The author's staff indicates that they are currently negotiating amendments to require a physical check-up to determine that the patient does not have a medical condition in addition to a mental disorder.

AB 348 is sponsored by the California Psychological Association and supported by the California Mental Health Directors Association. The bill is opposed by the California Psychiatric Association.

The Honorable Board of Supervisors

April 8, 2003

Page 5

AB 348 is set for hearing on April 8, 2003 in the Assembly Health Committee.

These recommended positions will be added to the State Legislative Agenda and are consistent with the following specific County Strategic Plan Goals: improve organizational efficiency, improve delivery of health and mental health services, improve fiscal responsibility.

Respectfully submitted,

DAVID E. JANSSEN
Chief Administrative Officer

DEJ:GK
IGR:zo

c: Executive Officer, Board of Supervisors
County Counsel
Mental Health Department
Probation Department